



January 3, 2022

Congressman Mark DeSaulnier  
503 Cannon Office Building  
Washington DC 20515

Congressman Jeff Fortenberry  
1514 Longworth Office Building  
Washington, DC 20515

RE: American Discovery Trail Act  
HR4878

Dear Congressman DeSaulnier and Fortenberry:

Please accept this correspondence as the serious concerns of the above Organizations with regard to the American Discovery Trail Act ("The Act"). The Organizations have long supported the concept of Congressional designations for important routes and areas of public lands. This support has tempered recently with the challenges we have faced in the management of routes designated under the National Trails System Act, such as the Continental Divide Trail and Pacific Crest Trail. We have had to invest significant resources and effort in the protection of multiple uses on federal public lands as part of the updating of resource management plans and travel plans across the west, as a result of these horribly twisted interpretations of the designations of these routes by "partners". These are closures of the trail and adjacent areas to everything but horse and foot access were prohibited under the explicit provisions of the NTSA but were sought after anyway.

Prior to addressing the specific concerns the Organizations have regarding the Act, we believe a brief summary of each Organization is needed. The Colorado Off-Highway Vehicle Coalition ("COHVCO") is a grassroots advocacy organization of approximately 250,000 registered OHV users in Colorado seeking to represent, assist, educate, and empower all OHV recreationists in the protection and promotion of off-highway

motorized recreation throughout Colorado. COHVCO is an environmental organization that advocates and promotes the responsible use and conservation of our public lands and natural resources to preserve their aesthetic and recreational qualities for future generations. The Trail Preservation Alliance ("TPA") is a 100 percent volunteer organization whose intention is to be a viable partner, working with the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to preserve the sport of trail riding. The TPA acts as an advocate of the sport and takes the necessary action to ensure that the USFS and BLM allocate to trail riding a fair and equitable percentage of access to public lands. Colorado Snowmobile Association ("CSA") was founded in 1970 to unite the more than 30,000 winter motorized recreationists across the state to enjoy their passion. CSA has also become the voice of organized snowmobiling seeking to advance, promote and preserve the sport of snowmobiling through work with Federal and state land management agencies and local, state and federal legislators telling the truth about our sport. For purposes of these comments, TPA, CSA and COHVCO will be referred to as "the Organizations".

**1a. The Organizations are very concerned about impacts of the Act to multiple use routes that do not have Congressional designations.**

The Organizations are very concerned about the lack of protection for existing multiple use routes and areas that do not have Congressional designations but would be designated as part of the American Discovery Trail ("ADT") ADT. We are aware of the protections in the Act under §2(c)(2) for routes that have Congressional designations, but we are intimately familiar with the impacts of designated National Trail System Act ("NTSA") routes have had on multiple uses on Federal public lands. It is the Organizations position that any future Congressional trail designation efforts must protect other uses on all federal public lands. This concern is compounded by the fact a HUGE portion of the proposed trail appears to be collocated with existing roads and is compounded by the fact that the ADT takes multiple routes in numerous locations to accommodate uses that are other wise prohibited, such as use of bicycles in Wilderness

areas. We are concerned that the ambiguity of these routes will create conflict about the route and protection of existing usages in these areas.

These concerns were the basis of the US Supreme Court's 2019 Cowpasture decision<sup>1</sup>, which clearly identified the relationship of routes designated under the NTSA and multiple use mandates for federal public lands. The fact that this issue had to be resolved by the Supreme Court is an indication that current NTSA protections for multiple uses on and adjacent to the trail were insufficient, and represents a management model that must be avoided in the future. The relationship of multiple use mandates and NTSA routes represents why we are concerned about impacts to routes that are not Congressionally designated. We were also very disappointed by the fact that numerous groups that we had partnered with to address issues on many portions of Congressionally designated trails were also submitting amicus briefs to the Supreme Court seeking to preclude motorized usage on the Congressionally designated route. These relationships have been damaged and will be difficult to repair.

The conflicts around NTSA routes does not stop with the Supreme Court. The impact of existing NTSA routes on multiple uses in areas or routes without specific Congressional protections has been a major point of conflict in Forest and Field Office planning efforts over the last several years, despite the clarity of the NTSA on this issue. In these planning efforts there has been a concerted effort by many anti-access groups to designate the entirety of Congressionally designated multiple use routes as foot and horse only in forest planning efforts, despite the NTSA. These restrictive designations extended beyond the footprint of the trail, as these groups specifically sought corridors excluding motorized usage of up to a mile in width around the trail as well. This would have closed the route and any route that approached or crossed the NTSA designated route. These types of exclusionary corridors were found around the Continental Divide National Scenic Trail, spanning more than 3,000 miles from Canada to Mexico, in forest

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<sup>1</sup> A complete copy of this decision is available here: [18-1584 United States Forest Service v. Cowpasture River Preservation Assn. \(06/15/2020\) \(supremecourt.gov\)](#)

plan amendments in the Rio Grande and GMUG NF in Colorado, the Shoshone in Wyoming and the Santa Fe, Gila and Carson NFs in New Mexico. The scale of the impact of closures of this large area could not be overlooked as huge portions of the CDNST are collocated on roads and trails, where motorized usage has been occurring for more than 100 years without conflict. This lack of conflict was exemplified by the fact that numerous portions of these trails have been the basis of large collaborations between diverse user groups to maintain the trail. We doubt these collaborations will be continuing in the near future.

In addition to these exclusionary corridors being proposed around almost all of the CDNST, the Organizations have also found this type of corridor present around the Pacific Crest Trail ("PCT") in California, which runs more than 2600 miles from the border of Mexico to the Canadian Border despite specific recognition of multiple uses in the designation and planning documents for the PCT. The Organizations have had to fight exclusionary management of both the PCT and corridors around the PCT for winter recreation as exemplified on winter Travel planning on the Tahoe NF, Lake Tahoe Basin Management Unit, Inyo NF, Stanislaus NF, Eldorado NF, Lassen NF, Plumas NF and Stanislaus NF. These management standards were again proposed based on the horribly twisted interpretation of the NTSA by "partners" some of whom had supported winter maintenance by the motorized community of these areas previously. Again, existing usages would have been pushed off roads and trails that had been part of the original designations of the PCT and were never intended to be impacted. This is a very concerning fact pattern that gives us serious concerns regarding any new NTSA designations that do not clearly and explicitly protect all public access to all areas in the future.

**1b. Congressionally designated areas must be protected in addition to Congressionally designated routes**

The Organizations submit that Special Area Designations created by Congress must also be protected in any future NTSA designations as this is another issue we have had significant challenges around in planning. Currently the Act only protects routes designated by Congress but is silent on areas that might have been designated by Congress. This another conflict that does not exist in isolation. An example of our concerns around areas with Congressional protections that might be impacted by a NTSA route designation and subsequent planning is exemplified by California Desert Conservation Act ("CDCA") in California and Desert Renewable Energy Conservation Plan ("DRECP"). Under the relevant federal law provisions governing the CDCA, management goals and objectives are as follows:

"The Congress finds that—

(1) "the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and **economic resources that are uniquely located adjacent to an area of large population; ...**

(3) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, **and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;**"<sup>2</sup>

We are concerned that again the exclusionary corridors around the Pacific Crest Trail were proposed to be placed around hundreds of miles of the PCT in the DRECP without

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<sup>2</sup> See, 43 U.S.C. 1781 (a).

so much as a discussion of these Congressional protections provided in federal law. Rather the preferred Alternative of the DRECP provides for these corridors as follows:

“The DRECP will make decisions for three National Trails (Pacific Crest National Scenic Trail, Old Spanish National Historic Trail and the Juan Bautista de Anza National Historic Trail) to designate the National Trail Management Corridors and management actions to safeguard the nature and purposes for the national trail designation. The corridors will provide for quality outdoor recreation potential and for the conservation and enjoyment of the nationally significant, scenic, historic, natural or cultural qualities of the areas through which the National Scenic and Historic Trails may pass. Goals and Objectives and CMAs for the National Trails are included in Section II.3.4.1.6.”<sup>3</sup>

Again, this is only an example of why additional protection for area designations is necessary in any future NTSA designation. We are aware of many other examples of previous Congressional Actions protecting or returning motorized access to the PCT that are simply never mentioned in the planning efforts. This is an indication that protections for multiple uses under the Act are woefully insufficient and must be opposed by us until these protections are clearly and explicitly provided for in the Act.

## **2. Why is another class of trail needed in NTSA?**

The Organizations are concerned regarding the need for an additional classification of trail under the NTSA and how much usage a trail such as this would actually obtain. The Organizations must think that a trail such as this could be created to fit into an existing trails category under the NTSA, such as a historic trail. We simply don't understand the goals and objectives for the new classification of Discovery route as the criteria are VERY generalized and could be applied to almost any route. The Organizations submit this

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<sup>3</sup> See, DRECP Proposed LUPA and Final EIS CHAPTER II.3. PREFERRED ALTERNATIVE at pg. II-3-65

generality of route criteria will allow routes that are really outside the intent of the NTSA to be designated and really undermine the perceived quality of existing routes and intent of the NTSA. This should be avoided.

The Organizations are also aware that only a few hundred traverse the PCT or the CDNST despite highly scenic nature of trails. Give that the proposed ADT would traverse more than twice this distance over areas that lack the scenic characteristics of the CDT or PCT, the Organizations must wonder how many people will use the trail. This limited visitation to the ADT causes us to have concern if the costs of administration and management could ever be offset. This gives us concern that there are simply better uses for this money in the various communities the ADT connects through.

The Organizations are concerned that much of the ADT discussion seems to be a top-down type of discussion about trail support and creation that has been occurring since the 1990's. This is a very different model from the efforts that resulted in the designation of so many other trails in the NTSA. Most trails have an existing support organization that is helping with the route development prior to its designation. The ADT seems to be the reverse of this situation which is causing concern as this seems to be an idea in search of funding rather than the application of funding to an existing resource.

### **3. Conclusion**

We welcome discussions around the Congressional designation of areas and routes but the Organizations have serious **concerns** regarding to the American Discovery Trail Act ("The Act"). The Organizations have long supported the concept of Congressional designations for important routes and areas of public lands. This support has tempered recently with the challenges we have faced in the management of routes designated under the National Trails System Act, such as the Continental Divide Trail and Pacific Crest Trail. We have had to invest significant resources and effort in the protection of multiple uses on federal public lands as part of the updating of resource management plans and travel plans across the west, as a result of these horribly twisted

interpretations of the designations of these routes by “partners”. These are closures of the trail and adjacent areas to everything but horse and foot access were prohibited under the explicit provisions of the NTSA but were sought after anyway. This represents a situation that is totally unacceptable to the Organizations and our members and must be clearly and explicitly addressed in any future Congressional designation. Right now, the ADT does not provide these protections and as a result cannot be support by the Organizations and our members.

Please feel free to contact Scott Jones at 518-281-5810 or [scott.jones46@yahoo.com](mailto:scott.jones46@yahoo.com) if you should wish to discuss these matters further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Jones".

Scott Jones, Esq.  
Authorized Representative- COHVCO  
Executive Director CSA

A handwritten signature in cursive script, appearing to read "Chad Hixon".

Chad Hixon  
Executive Director – TPA

CC: Congresswoman Lauren Boebert; Congressman Ken Buck